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**VIA ECF**

The Honorable Naomi Reice Buchwald  
United States District Court for the  
Southern District of New York  
500 Peal Street  
New York, New York 10007

Re: *Treasure Chest Themed Value Mail, Inc. v. David Morris Intl., Inc.*  
1:17-cv-00001-NRB (S.D.N.Y.)

Dear Judge Buchwald:

Defendant untimely<sup>1</sup> and mistakenly argues that Plaintiff's request for a pre-motion conference should be denied because it has not already proven that the motion will be successful. In the process, Defendant has confused the requirements for a request for a pre-motion conference and the ultimate showing required for Plaintiff to prevail in its motion.

This Court's Individual Practices require no more of Plaintiff than to set forth the basis of the contemplated motion. To require proof at the outset, as Defendant contends, would frustrate the Court's process, resulting in full motions being presented in conference requests and the filings of redundant supporting briefs.

Defendant's remaining contention regarding the propriety of enforcement methods is also unavailing. It is axiomatic that a judgment-debtor, such as Defendant, may not dictate which available methods a judgment-creditor may utilize to enforce a judgment. Contrary to Defendant's implication, 28 U.S.C. § 1963 lacks any language limiting its applicability as a first or last resort.

Finally, Defendant's contentions regarding the effect of a reversal or modification on appeal are particularly without merit. Fed. R. Civ. P. 62(d) specifically provides Defendant an avenue for

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<sup>1</sup> The Court's Individual Practices provides that opposition to a pre-motion conference request should be submitted within three business days. Plaintiff's request letter was submitted on December 18, 2018, thus the deadline for Defendant's opposition would have been December 21, 2018. Accordingly, the December 28, 2018 submission is untimely.

relief under the circumstances. Absent a bond, Defendant lacks any legal method to halt collection efforts, hence the frivolous arguments.

Concisely, Defendant has failed to provide a timely, meritorious opposition to Plaintiff's request for a pre-motion conference. Plaintiff reiterates that it can presently make the required showing under 28 U.S.C. § 1963, and respectfully requests a pre-motion conference at the earliest date permitted by the Court's schedule.

Very truly yours,

/s/  
Daniel Knox

cc: all counsel by CM/ECF